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BODY:

MR. LEHRER: Good evening. Leading the news this Friday, the first indictments and guilty pleas came in the Pentagon bribery case, the nation's unemployment rate fell to 5.3 percent, and Emperor Hirohito of Japan is dead. We will have the details in our News Summary in a moment. Robin.

MR. MAC NEIL: After the News Summary we look at the Pentagon fraud indictments and guilty pleas in a News Maker interview with special prosecutor Henry Hudson. Next, what it means that conspiracy charges against Oliver North have been withdrawn in the Iran-Contra case. Joining us are Lyle Denniston of the Baltimore Sun, former Iran-Contra Counsel John Nields, and former Justice Department Spokesman Patrick Korten, and finally a look at the reign of Emperor Hirohito of Japan who died today.

NEWS SUMMARY

MR. LEHRER: The government took the first major actions today in the Pentagon bribery scandal. The targets were a Navy procurement employee, two private consultants, plus two defense contractors and their employees. They were charged in Alexandria, Virginia, with crimes ranging from bribery and theft of government privacy to conspiracy and racketeering. The Navy official is Stuart Berlin. The consultants are William Parkin and Fred Lackner. They allegedly worked to provide inside information on Navy contracts to Teledyne electronics and the Hazeltine Corporation. Teledyne and three of its employees were indicted today. A fourth entered a guilty plea. Hazeltine and three of its former employees also entered guilty pleas. U.S. Attorney Henry Hudson told a news conference he hoped the charges would have a chilling effect on the defense establishment.

HENRY HUDSON, U.S. Attorney: The citizens of the United States, I believe, have an absolute right to the honest services of public officials, and when individuals are receiving money for violating rules and regulations, passing confidential information, I think it strikes at the very heart of the procurement process. With the pleas of guilty today and the cases that develop in the future, I believe that we'll have the type of deterring effect that we need to ensure and insure in the future that there is integrity in the process.

MR. LEHRER: John Tower was listed in good condition today at a Dallas hospital. Tower, a former U.S. Senator from Texas, is President-elect Bush's choice for Defense Secretary. The Associated Press said Tower had a cancerous

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polyp removed from his rectum last week. A second polyp believed to be benign was removed yesterday. Hospital officials said they expected a 100 percent recovery. Robin.

MR. MAC NEIL: At the United Nations, the United States strongly disputed Soviet claims that U.S. Navy pilots had no reason to shoot down two Libyan jets earlier this week. The Soviet representative called the U.S. claim that the Navy pilots acted in self-defense completely unfounded. U.S. Amb. Vernon Walters brought photographs which he said proved the Libyan jets were not unarmed as Libya claimed but were equipped with air to air missiles. Walters opened his remarks with a reference to the many nations that have criticized the U.S. during the Security Council debate on the issue.

VERNON WALTERS, U.S. Ambassador To U.N.: In the last two days, we have heard some intemperate statements which demand comment. The United States is not really disposed to receive lessons on terrorism from a nation like Sandinista and Nicaragua. Nor is it ready to be taught the norms of international behavior by nations governed by various forms of military or civilian one party dictatorships. At the outset, it was claimed that the Libyan planes were unarmed. We have photographs that prove the planes were armed. The military, the missile pods are clearly visible on these photographs. I will pass these photographs around so everybody can see for themselves whether there were or were not missiles on these aircraft which have been claimed to be unarmed. The missile pods show quite clearly there were two different types of missiles on the aircraft hanging from the aircraft's wings and hanging from the underpart of the fuselage.

MR. MAC NEIL: Libya's Ambassador called the photos fakes and refused to look at them when they were handed to him. In Paris, Soviet Foreign Minister Eduard Shevardnadze said the Libyan plane incident had poisoned the atmosphere at the international conference convening there to discuss chemical weapons. Secretary of State George Shultz discussed the issue of the Libyan chemical plant in Paris today with French President Francois Mitterrand. France, Canada and Egypt all reportedly told Sec. Shultz they agreed with the U.S. that Libya had built a chemical weapons factory. Britain said the same thing earlier this week and tomorrow Shultz meets with his West German counterpart to discuss the issue. West Germany complained today that U.S. allegations about German chemical weapons exports to Libya were groundless and had strained relations between the two countries. Chancellor Helmut Kohl spokesman Frederick Ost told a news conference that the Chancellor had complained to Washington. Ost said despite several requests, the U.S. had not supplied intelligence data to back up its claim that West Germans had helped Libya build a chemical weapons plant.

MR. LEHRER: President-elect Bush said today he supported the dismissal of two major criminal charges against former White House aide Oliver North. Independent Counsel Lawrence Walsh asked for the dismissal yesterday because of the unavailability of classified documents needed for the trial Bush told reporters Walsh was correct in what he did.

PRESIDENT-ELECT BUSH: I think it's the proper step and I think he properly found that there are legitimate national security interests that must be protected.

REPORTER: -- the process of the law was served --

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PRESIDENT-ELECT BUSH: I told you my position on what I think. I think he did the right thing.

MR. LEHRER: President Reagan today endorsed 50 percent pay raises for members of Congress and other top federal officials. He accepted the recommendations of a non-partisan pay commission and sent them on to Congress. Unless specifically overturned by House and Senate votes before February 8th, the measure will automatically take effect. And the nation's unemployment rate went down again in December. The Labor Department said it fell to 5.3 percent from November's 5.4. It marked the third time in 1988 it had gone to 5.3, the lowest that rate has been in 14 years.

MR. MAC NEIL: In the Pan Am Flight 103 bombing, Reuters News Agency reported that British investigators now believe the bomb was probably put aboard by a worker at London's Heathrow Airport. The agency quoted West German intelligence sources who said British investigators had told them they thought the explosives were placed in a passage connecting the cockpit with a luggage hold.

MR. LEHRER: Japan's Emperor Hirohito is dead. The 87 year old monarch died Saturday morning Japan time at the Imperial Palace in Tokyo. He had been in failing health for the past four months. Hirohito's reign began in 1926. He will be succeeded by his son, Crown Prince Akahito.

MR. MAC NEIL: That's our summary of the News. Now it's on to the Pentagon fraud case, dropping conspiracy charges against Oliver North, and a profile of Emperor Hirohito.

#### NEWS MAKER - PENTAGON PROBE

MR. MAC NEIL: We begin tonight with the Pentagon procurement scandal. Today the first indictments and guilty pleas came down in a two year investigation into allegations that defense contractors and consultants had bribed Defense Department officials for inside information about lucrative contracts. Today's indictment named two consultants, a Pentagon official bribed by them for inside information about a contract, and the corporation accused of buying the information and three of its employees. The indictment said the consultants bribed the Pentagon official a thousand dollars every few months for information about a Navy contract which they sold to the corporation for \$160,000. Earlier in the day, the Hazeltine Corporation, a New York defense contractor, two of its employees, and a Teledyne employee pleaded guilty on related charges of fraud. Earlier this evening I talked with the chief prosecutor in the case, U.S. Attorney Henry Hudson.

MR. MAC NEIL: Mr. Hudson, welcome.

MR. HUDSON: Thank you.

MR. MAC NEIL: Can you tell us in simple story terms what it is you are alleging against the people who were indicted today and what those who pleaded guilty have done? How did it come about and how did it happen in your version?

HENRY E. HUDSON, U.S. Attorney: Okay. Well, the indictment that was returned today was a 27 count indictment that charged one corporation, Teledyne Corporation, and six individuals with a variety of criminal charges. All of them were charged with conspiracy to bribe a public official and conspiring to

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defraud the United States Government. A number of other officials were charged with actual bribery to public officials engaging in a wire fraud scheme, threat or conversion of public property and making false statements in connection with the defense procurement process. In addition, three of the defendants were charged with engaging in a pattern of racketeering activity and conspiring to violate federal racketeering laws. The indictment involves competition for a contract known as the ANAPM 424 contract. That's an identification, friend or foe, hand held transponder test set. It involved a \$100 million contract. The indictment extends from September of 1985 all the way to June the 14th of 1988.

MR. MAC NEIL: Can I just be clear? So all the charges laid today and the guilty pleas entered involved this one story of people trying to get this one contract, is that --

MR. HUDSON: No. The indictment involves this particular contract. The guilty pleas involve the UPM contract, which is also a component of the friend or foe identification system. But that was a separate and distinct contract that involved the Hazeltine Corporation. The common elements here were several of the individuals that were indicted today, Mr. Stuart Berlin, Mr. Lackner, and Mr. Parkin.

MR. MAC NEIL: Stuart Berlin is the procurement official in the Pentagon.

MR. HUDSON: That is correct.

MR. MAC NEIL: Well, are you saying that the Teledyne and Hazeltine people worked together in this?

MR. HUDSON: These were separate and distinct investigations, and as I mentioned to you, the common elements were Mr. Berlin, Mr. Lackner, and Mr. Parkin, who worked together for each of these corporations.

MR. MAC NEIL: The Teledyne defendants were also offered a plea bargain, it's reported, but refused it, is that correct?

MR. HUDSON: I'm not going to comment on any negotiations in this case.

MR. MAC NEIL: All right. The Hazeltine people who pleaded guilty today you, yourself, have agreed to cooperate.

MR. HUDSON: That's correct.

MR. MAC NEIL: That means that you are counting on them for information leading to other instances of fraud?

MR. HUDSON: Well, they will help us to further the investigation. In addition to the Hazeltine Corporation pleading guilty today, two corporate officers also pleaded guilty and they will be cooperating in the ongoing investigation.

MR. MAC NEIL: Do you expect this investigation to result in charges or pleas by people higher up in the Pentagon than is the case so far?

MR. HUDSON: Well, obviously, that's a frequently asked question of me, but I'm not prepared at this point comment on who may or may not be touched by this investigation. We're charging forward and I think in the months that ensue

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you're going to see additional action in this case.

MR. MAC NEIL: Well, let me put to you something you told the Washington Post last week. "It's never been my contention that the first indictment will represent the strongest or most serious case emerging from this investigation.". That suggests you have stronger, more serious cases still to emerge, is that correct?

MR. HUDSON: There are other cases we are working on. This is a continuing investigation and as I told the Washington Post last week, the indictment you saw today was the first one we had prepared to my satisfaction, the first one I thought we were prepared to go forward on, and that's why we asked the grand jury to return this indictment.

MR. MAC NEIL: But not the most serious or the strongest case?

MR. HUDSON: I don't believe this is going to be the most serious case to emerge from this investigation, no, sir.

MR. MAC NEIL: So would it be fair for one to infer from that that bigger fish and more companies will be involved in further parts of the investigation?

MR. HUDSON: I'm not going beyond that comment, I'm sorry.

MR. MAC NEIL: Well, let me just ask you for the record, I mean, there's been speculation that the investigation would go as high as former Navy Secretary John Lehman or his key procurement deputy, Melvin Paisley. Is that likely?

MR. HUDSON: I'm not going to comment. Again, the investigation will continue, but I'm not going to forecast at this point who may or may not be charged as a result of this investigation. It's too premature and it would be improper for me to do that.

MR. MAC NEIL: What does it signify that, as some people who have observed this have said, this was a relatively quick plea of guilty in this case, what does that signify and would you comment on that?

MR. HUDSON: Well, it signifies we have a strong, well prepared case. My prosecutors have done an excellent job of putting this case together and I believe defense counsel recognized that.

MR. MAC NEIL: How long before the rest or further parts of this may unfold, will be seeing, as you call it, further activity?

MR. HUDSON: Well, I would expect that this indictment will be set for trial sometime in mid March and, of course, at that time, you'll learn more about our evidence here. I'm not going to speculate as to when our next indictments will be returned. We have a massive amount of evidence in this case. The last time I checked with the FBI evidence custodian, we had well over a million documents. We have two years of tapes, we have hundreds of people that are being interviewed, and it's a long complicated process in putting one of these cases together. If you compare the pace of this case with others, you'll find we're moving at a very good speed.

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MR. MAC NEIL: When the case came to light last summer after an investigation that had gone on for nearly two years --

MR. HUDSON: Well, that's not correct.

MR. MAC NEIL: I beg your pardon.

MR. HUDSON: That's not entirely correct.

MR. MAC NEIL: What is correct?

MR. HUDSON: For two years, there were a series of electronic surveillances used. During that two year period of time we weren't conducting any investigation. We were merely listening. We did not even begin the investigative aspect of this case until June the 14th of last year. That's when we began harvesting information and putting the pieces together.

MR. MAC NEIL: Well, when that part of it became public last summer, you -- I'm not sure whether you or some other one of the prosecutors involved -- said this was the biggest, most massive, most widespread investigation of alleged fraud in the Pentagon ever in that department. Since you've been pursuing your investigations over the last six months, have the ramifications gone further, is it smaller, is it bigger, how would you characterize what you're finding as you go further into it?

MR. HUDSON: Well, you stated what my initial impressions were back in June, and I don't retreat from that position at all today.

MR. MAC NEIL: I see, but has it got any more elaborate or any further -- in other words, has it become more complicated and has it gone further than you at first thought from the evidence you had available to you when you began investigating last summer?

MR. HUDSON: Well, I won't comment on whether or not it has gone further than I originally forecast, but I will tell you that in many respects, it is more complex than we thought it would be. These contracts are very complicated. We're dealing with a tremendous morass of documents here and for investigators and prosecutors to go through them and identify pertinent parts, connect them with various parts, is a massive undertaking, and it's taking a lot of time.

MR. MAC NEIL: Have you come to any conclusions, yourself, about whether such fraud is endemic to the system, or something in the system of procurement invites such activity?

MR. HUDSON: Well, I don't believe that our investigation has developed to the point where I could make those types of observations, but I will say this. This investigation focus on a very small part of the defense procurement process. I think the majority of the men and women in the Department of Defense involved in procurement are honest, decent people. A small segment of them appear to be engaged in unlawful and corrupt practices. That's what this investigation is all about, and I hope as a result, this will be able to cure it.

MR. MAC NEIL: Have you come to any conclusion about whether the system as it is now would be less open to fraud or less, present less of an invitation to fraud, if it were organized differently, the procurement process?

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MR. HUDSON: There is a possibility that at the conclusion of this investigation, we may have some recommendations in that area, but those investigations will be conveyed to the proper authorities by people at the Department of Justice.

MR. MAC NEIL: Well, Mr. Hudson, thank you very much for joining us.

MR. HUDSON: Thank you.

MR. LEHRER: Still to come on the Newshour tonight, dismissing charges against Oliver North, why teenagers smoke, and a look back at Japan's Emperor Hirohito.

#### FOCUS - IRAN-CONTRA CASE

MR. LEHRER: Next, the move to dismiss two important Iran-Contra charges against Oliver North. Independent Prosecutor Lawrence Walsh made the move yesterday, saying problems over the use of classified documents made it impossible to proceed. Twelve other charges against the former White House aide would remain in force, with his trial still set to begin January 31st. We look at this latest development in the legal saga of Oliver North with the former chief counsel of the House Iran-Contra Committee, a former Justice Department official, and a newspaper reporter who has been covering the story. That reporter is Lyle Denniston, Legal Correspondent for the Baltimore Sun, and he is first. Lyle, take me through the decision, Walsh's decision. How did he arrive at that?

LYLE DENNISTON, Baltimore Sun: Well, it probably began even before the charges were filed by the Grand Jury last March. It began when Judge Walsh, Mr. Walsh, decided to go forward with a broad case against Oliver North. At that point he was told, even before the grand jury issued charges, by Mr. North's lawyers that if you go for this kind of a charge the only way that Oliver North can prove his innocence is to bring out a whole raft of secret material about what went on during that period of three years of covert operations.

MR. LEHRER: Now the broad charge, you mean a conspiracy charge?

MR. DENNISTON: A conspiracy charge and the charge that he stole government property by diverting the profits from the Iran arms sales to aid the Contra rebels in Nicaragua. At that point, Judge Walsh went forward with these broad charges and since that time for the past nine, nine and a half months, we have been moving towards this showdown on whether or not the government's intelligence agencies would allow Mr. Walsh on his side of the case and Mr. North's lawyers on his side of the case to use what had been classified information as evidence in the trial, Mr. Walsh to use some of that data to use some of that data to prove his charges, Mr. North to use some of that data to prove his innocence. And the intelligence agencies ultimately wound up saying we can't give you the permission that Judge Gesal has said you must have in order to go forward with those charges, whereupon Mr. Walsh decided that he could not prove those charges without that material, and, therefore, asked to drop them next week.

MR. LEHRER: What is your understanding, Lyle, as to what is the nature of the classified documents that are so crucial here to both sides?

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MR. DENNISTON: Well, the ones that seem to be causing the greatest difficulty are documents which I understand identify sources and methods. That's a term of art in the intelligence community. That means how we gather secrets about other countries, how we, ourselves, process our own secrets, in other words, the intelligence community's way of gathering its kind of sensitive, very sensitive information.

MR. LEHRER: Is it your impression that there are some huge secrets about the Iran-Contra affair that are in these documents that they don't want out? We don't know, huh?

MR. DENNISTON: Well, I've never been persuaded of that, Jim, but I have always wondered and, indeed, hoped as a journalist that when this case went to trial, we would learn some more about what President Reagan did, perhaps we might learn something more about what President-elect Bush did in those days --

MR. LEHRER: Assuming there was more to learn.

MR. DENNISTON: If there was more to learn. I had thought that we might well learn those kind of details, things in which the Iran-Contra committees and the Tower Commission did not bring out in any full and final way and that prospect now I think seems more remote with the dropping of these two charges.

MR. LEHRER: All right. The charges that were dropped were the conspiracy charge, the two broad charges, but there are 12 that remain. Quickly run through those, what the nature of those are.

MR. DENNISTON: Most of those, Jim, have to do with lying to Congress or lying to the Presidential inquiry which Mr. Reagan ordered in November of 1986.

MR. LEHRER: The Tower Commission.

MR. DENNISTON: Right. Lying either while the process was going forward between 1983 and '86, or lying to cover it up after the scandal broke in November of 1986. There also are a couple of charges suggesting that Mr. North used proceeds for his own personal benefit, proceeds of the arms sales, by using these travelers' checks for personal purposes and getting a \$13,000 security system installed to protect him and his family at home. And finally there's a charge, and this charge, by the way, involves a suggestion that the President, himself, knew some of what was going on. This is the charge that Mr. North illegally arranged for tax exempt contributions to fund some of the arming of the Contra rebels.

MR. LEHRER: What about the destruction of documents, of government documents?

MR. DENNISTON: That's one of those too.

MR. LEHRER: That's one of those.

MR. DENNISTON: Yes, the destruction of documents when the scandal broke, after the scandal broke in November of '86.

MR. LEHRER: But from the legal standpoint, or legal standpoint that I could understand at least, the difference between the remaining 12 and the 2 that were dismissed, have nothing, the remaining 12 have absolutely nothing to do with

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whether or not money was diverted from the Iran arms sales to Nicaragua, et cetera.

MR. DENNISTON: That's true. That's out of the case now, Jim.

MR. LEHRER: These had to do with very specific acts, the ones that remain.

MR. DENNISTON: That's right. But by the way, these very specific acts do involved the same kinds of problems of classified documents that the two big charges also involve. For example, we learned today in papers filed in the court that of the 300 documents that Mr. North still wants to use in his defense, the vast bulk of those, all but a handful, bear upon the remaining 12 charges, not the big 2.

MR. LEHRER: We're not out of the woods yet.

MR. DENNISTON: So we're far from finished with this problem with classified documents.

MR. LEHRER: All right, thank you, Lyle. Now two reactions and analyses of the Walsh decision. They are those of Washington attorney John Nields, who was the chief counsel to the House Select Committee that investigated the Iran- Contra Affair, and Patrick Korten, a former Justice Department Spokesman under Attorney General Edwin Meese; he now works for the Heritage Foundation here in Washington.

MR. LEHRER: Mr. Nields, did Walsh do the right thing?

JOHN NIELDS, Attorney: Well, I don't have any way of knowing whether the documents that the Intelligence agencies refused to declassify were properly classified. In my opinion, I think this may be a blessing in disguise for Walsh. The remaining charges are significant ones and I believe more difficult for North to defend against with the conspiracy charge out of the indictment.

MR. LEHRER: In what way?

MR. NIELDS: The conspiracy charge I believe would have permitted North to litigate the case on his turf. The conspiracy charge relates mainly to the conducting of an illegal war in Nicaragua, the supporting of the Contras during the period of the Boland amendment, and other aspects to it which were important, such as the diversion of funds and the concealment of what was going on from Congress, but it would have centered around a war in Nicaragua, the support of the Contras. That would have permitted North to put forward his strongest and most emotionally appealing defense that he was saving lives, that he was defending democracy from communism and it would have permitted him to wave the flag and argue that heroism and perhaps some bending of the rules was appropriate under the circumstances. The other charges don't lend themselves to that type of a defense, at least not anywhere near as easily. They involve lying to Congress, lying to the Attorney General, shredding documents, altering official documents, falsifying chronologies.

MR. LEHRER: But couldn't the defense also be made he lied to Congress in the interest of national defense, he shredded the documents in the interest of national defense?

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MR. NIELDS: It can be but I think it is much more difficult. Those charges are fairly specific. They are the type of charges that are frequently brought in criminal cases against other people in this country, most people who lie to federal agencies or obstruct justice or congressional investigations if they get caught, they get indicted for it. I don't know of anyone who's been indicted for conducting an illegal war or even for moving money from one governmental purpose to another without an official appropriation.

MR. LEHRER: So Walsh is better off in your opinion?

MR. NIELDS: In my opinion, tactically this case is stronger for Walsh without the conspiracy count in the indictment?

MR. LEHRER: Mr. Korten, what's your reading of that?

PATRICK KORTEN, Heritage Foundation: Well, first of all, I think that Mr. Walsh is left in an awkward position, having dropped the two major counts, because he is now left with having spent \$12 million of the taxpayers' money in order to prosecute Ollie North for having allowed a security system to be put in around his house to protect him and his family from Abu Nidal, or from buying a couple of snow tires using traveler's checks, which he later paid back, \$12 million for that? That's an awfully difficult thing for someone to go back to the public and answer for.

MR. LEHRER: So you do not agree with Mr. Nields that he is left with a stronger case, tactically at least?

MR. NIELDS: Well, from a legal standpoint, it may simplify the task of prosecution, but, on the other hand, some of these counts, I would not care to be the prosecutor and trying to persuade a jury that Ollie North ought to be sent to jail for allowing that security system to be put in. Brendon Sullivan is going to play that jury like a Stradivarius. There's not a jury in America I think that you can find that can convict him on something like that.

MR. LEHRER: Is it your view that the thing ought to be dropped now?

MR. NIELDS: I think absolutely it ought to be dropped. There is nothing here left that is worth prosecuting, nothing here that would have been taken all the way to indictment by the average prosecutor working for the Department of Justice. As a matter of fact, if I may insert one other thing, there's one significant point here that I don't think is fully appreciated and that is that the conspiracy charge and the other charges that depended upon the use of classified material would never have been brought in the first place. There would not have been an indictment had Mr. Walsh been a prosecutor working for the Department of Justice, because within the Department, before you can proceed to indictment in a case like that, you are required to get all of the clearances from the intelligence community first before you put somebody like Ollie North through the ringer of indicting him and trying to bring him to trial.

MR. LEHRER: So when Lyle said that three years ago -- when was it, Lyle, it doesn't matter when it was -- but even before he went before the grand jury, he knew he was going to have problems.

MR. DENNISTON: Of course he did, a year ago.

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MR. LEHRER: A year ago. If this had been a Justice Department case, it wouldn't have --

MR. KORTEN: Never would have gone to indictment in the first place. You'd have found out before that point that you had had classified material you had to rely on but could not use. There would not have been a charge brought in the first place.

MR. LEHRER: Mr. Nields, what do you think of Mr. Korten's point that -- stop it right now, what's the point in going on?

MR. NIELDS: Well, first of all, I guess as you can tell from what I've already said, I think, the other charges were the more properly brought. I had questions from the beginning about the conspiracy count and the diversion count. I think the others are proper criminal charges and I believe it is important that they go to trial. I don't know how they're going to come out but I think it's important --

MR. LEHRER: Why is it important that they go to trial?

MR. NIELDS: Because I believe that the most important issue arising out of the Iran-Contra affair is whether the rule of law will apply to activities conducted by our government in secret, and I underscore in secret. It is very difficult to bring the rule of law to bear on intelligence activities, secret activities, because they're secret, and if when we find out that secret activities have been conducted in a criminal way and charges are brought and it then turns out that we can't bring those charges to trial because they were done in the intelligence world and, therefore, they are classified secrets which will prevent the trial, we have really told the entire intelligence community that they're immune from the law and I think that would be a very serious and unfortunate thing.

MR. LEHRER: Mr. Korten.

MR. KORTEN: I don't want to say that's silly but I think it's disingenuous, because the charges that are being brought here are not, as John, himself, noted a minute ago, charging Ollie North with having illegally diverted funds or having done something in that realm that was wrong. There all things that revolve around whether or not he gave Congress information that it was asking for. Was Congress asking for that information properly? Were they exceeding their bounds? What you get right down to after you analyze most of these counts is a policy dispute between the legislature and the executive. And the Congress wanted a lot of information from the executive, not all of which it was entitled to, perhaps very little of which it was entitled to. They wanted to try to influence the executive branch foreign policy decision making in a way that the Congress is not entitled to do. They're trying to expand their power in the realm of foreign policy and they're trying to criminalize the dispute with the White House. That's what these counts are all about. They're not about Ollie North. They're about a policy dispute between the Congress and the executive.

MR. LEHRER: They're not about what Mr. Nields just said they were about.

MR. KORTEN: Not on a larger sphere, not on a larger sphere.

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MR. LEHRER: Criminal acts done in secrecy because of their intelligence.

MR. KORTEN: Take a view of this. For example, one of the charges or perhaps several of the charges, I guess, involved whether or not he misled or lied to Ed Meese during that weekend before all of this was announced to the White House news conference. Did he make false statements within the meaning of the Title 5 U.S. Code? The fact of the matter is that was an informal inquiry. The President asked Ed Meese to ask some questions, try to get to the bottom of it, but it was not an official criminal investigation. To charge someone with criminal violations for which one could suffer jail and heavy fines when, in fact, all you were talking about here was an informal inquiry, seems to me to be bizarre. Most of the rest of the counts don't make an awful lot more sense to me.

MR. LEHRER: Mr. Nields.

MR. NIELDS: Well, I guess as I've already said several times it is not unusual for the Department of Justice to bring criminal charges against people who obstruct official proceedings, shred documents, falsify records, lie to Congress, lie to the Justice Department, and I wish --

MR. LEHRER: You mean, the Attorney General --

MR. NIELDS: Lie to the Attorney General, and I wish that I could be guaranteed that when I have a client who is under investigation for similar things that I could go to the Justice Department and say, well, all they did was lie to you or somebody else, and consequently, they shouldn't be indicted.

MR. LEHRER: We're not going to resolve that one but let's take up a point that Lyle made and it's been made by others, that as a result of the decision, and assuming the judge -- is there any question, by the way, that the judge will go along with Walsh on this?

MR. DENNISTON: I don't think there's any question about it. He has a hearing on Monday at which he's going to examine the question and under the federal rules, he must agree to do it before the matter is dropped, but the judge, himself, has said over and over again for the last nine, nine and a half months, that he had serious problems going ahead with these counts anyway even before Walsh made the point.

MR. LEHRER: So let's assume that he does. Do you believe, Mr. Nields, or do you agree with Lyle, that as a result of this, the full story of Iran-Contra will now not be told?

MR. NIELDS: No. I think it was -- first of all I guess I should say, and I've got a little bit of a bias here since I was involved with the Congressional investigation, but I should say that we saw all of the documents in their unclassified form, and there were none that had any bearing at all on the President's responsibility for the diversion or frankly for any of the other episodes in the Iran-Contra affair which were concealed by reason of their being classified, and the second thing I guess I would say is that I think it would have been very unlikely that either North or the President, Reagan, should he have testified would have said anything different about the President's Congress than North said to the Congress or that Reagan had said to the public. So while I can't absolutely rule out that some additional piece of information would have come out or will come out in the context of the criminal case, I believe it

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was very unlikely and I doubt we lost anything in that regard.

MR. LEHRER: Do you agree with that, Mr. Korten?

MR. KORTEN: Oh, sure. After the eight or nine months that the Congress spent holding countless hours of hearings and producing thousands of pages of transcripts and many many more interviews that were conducted in private with people who had never testified, we have a very full complete account insofar as it can be known as to what happened.

MR. DENNISTON: There is one dimension into which the Congressional effort and the Tower Commission effort did not go and that's the role of George Bush. George Bush has never been subjected to a rigorous accounting to what role, if any, he had in that. Now I'm not suggesting that I know he had one, but he certainly was not asked to answer in the same way that President Reagan was asked to answer, and that is something that might well have come out at the trial or at least there was a prospect that that might have come out at the trial and that prospect is now gone.

MR. LEHRER: But it did not come out in the Congressional hearings at all. Is there some explanation for that?

MR. NIELDS: Well, the only thing that I would say is it is true that although we all got through the press and through the Tower report some idea of what President Reagan had to say about his own knowledge and involvement, we didn't learn that much from George Bush. But in terms of evidence from other sources about future President Bush's involvement, we explored those thoroughly, there wasn't very much on it frankly, and we concealed nothing that we learned.

MR. LEHRER: Mr. Korten, anything to add to that?

MR. KORTEN: I have great affection for Lyle. We've known each other for years and dealt with each other at the Department, but I'm always amused by the journalist's propensity to squeeze the last ounce of blood that can be had out of a story. I don't think anything involving George Bush would add anything significant to the story. Based on what I know of conversations that Ed Meese had with George Bush at the time, as well as all of the others, I don't think there was any significant role on his part.

MR. DENNISTON: Jim, I think there's another point here that bears repeating. I think it comes a little bit off of what Pat was saying earlier. These are difficult issues to try to raise and resolve in the context of a criminal case. This is a case that is regulated by the constitution itself and it's regulated by this bizarre 1980 law, the Classified Information Procedures Act, and to try to put on this trial and this criminal process, the burden of political revelation is asking it to carry a lot more baggage than it can, but it's all we've got left now. There are not going to be any other inquiries. Clumsy and inartful as this process might have been, it was worth trying, I think, from at least from a news perspective, whether or not from a governmental perspective; that's arguable, I suppose.

MR. LEHRER: You've been close to the procedures up till now. What is your -- do you think that the trial of Oliver North will, in fact, proceed on these final 12 counts?

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MR. DENNISTON: My present inclination is to think that it will not because I think that the classified documents issue is going to continue to plague this proceeding throughout and I think at some point, my own conjecture, purely off the wall, is that Lawrence Walsh is going to decide that he can't go forward with anything of real consequence in this case and the case I think ultimately will be aborted. But we'll know that in January or maybe in February.

MR. KORTEN: The same thing is what all of this says about the independent counsel law. What it say is after two years and \$12 million -- by the way -- do you know what the average U.S. Attorney's Office spends in a year, 5 million, and they bring hundreds and thousands of cases. He's spent \$12 million and he's come up with almost nothing.

MR. LEHRER: That's another whole thing and I'm sure we will have you and others back to talk about it depending on what the results are. Gentlemen, thank you all three for being here.

#### FOCUS - KIDS AND SMOKING

MR. MAC NEIL: Next tonight the question of why young people, despite all warnings and pleadings, still take up smoking. We have a report from Seattle by Lee Hochberg of public station KCTS Seattle.

LEE HOCHBERG: Teenagers today have lived their entire lives in a world with warning labels on cigarettes. They've never seen a tobacco ad on television. Yet, almost 20 percent of teenagers smoke every day. Teen smoking rates dropped a decade ago, but today, teens are the only segment of American society where smoking isn't on the decline.

TEEN: I don't know why I smoke. A lot of people ask me that, but mainly I guess it's because my dad smokes, there are cigarettes there. You know, a lot of my friends smoked. All my friends smoke now.

MR. HOCHBERG: Poor kids are twice as likely to smoke as their middle class teens. More than 80 percent of teens who smoke daily have below a C average in school. They are more likely to drop out, less likely to go to college. They are more likely to regularly use alcohol, marijuana, or other illegal substances. They know about lung cancer and emphysema and early death from smoking, but many teen smokers have an outlook on life that keeps the educational message from making a difference.

TEEN: Today you're going to die from smoking or nuclear war or whatever; you're still going to die.

TEEN: No, I don't think about it, because I know if it happens, it happens, there's nothing I can do to stop it besides quit smoking and you're going to die sooner or later, so -- {laughing}.

MR. HOCHBERG: Like their parents before them, most kids start smoking because they think it's cool, grown up, or just because their parents do it. Whatever the reason, smoking is not just a passing phase of rebellious youth. Many make a decision at the age of twelve or fourteen that will stay with them until they die.

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ROBERT ROSNER, Smoking Policy Institute: I think that in our society we have a slight problem, that what we do is we look at smoking and we say it's a personal choice issue and we forget that for millions and millions of people, once they start smoking, the personal choice goes out the window; they are hooked to an addictive drug.

YOUNG CHILD: I know I'm too young to smoke. It's just that I have a habit and I can't quit it.

MR. HOCHBERG: Government studies find that 53 percent of the nation's high school seniors who smoke half a pack of a day have tried to quit but couldn't. Ten years from now, 3/4 of them will still be smoking every day. Nicotine is considered one of the most addictive drugs young people encounter.

ROBERT ROSNER: Consistently, a majority of both alcohol users and drug users say that they had a much tougher time kicking nicotine than they did kicking alcohol and heroin.

MR. HOCHBERG: That addiction can be costly or profitable, depending on your perspective. The American Lung Association estimates kids under the age of 17 buy \$3 billion worth of tobacco products each year. In the State of Washington, selling cigarettes to minors is a gross misdemeanor, punishable by up to a year in jail, but the law has never been enforced.

MR. HOCHBERG: Where do you get your cigarettes?

TEEN: 7-Eleven's, just little mini stores, just little handy stores, you know, they'll sell them to anyone.

TEEN: It's easy to get in there. You know, they just kind of go, are you 18, yeah, okay, you know. They don't really, they don't card you.

MR. HOCHBERG: So where do you get your cigarettes?

TEEN: 7-Eleven.

MR. HOCHBERG: Is that --

TEEN: Down the street. It's 'cause when I'm at school, it's easier to go down there and get 'em. I just walk in and ask for a Salem Lights and they say okay and I give 'em the money.

MR. HOCHBERG: 7-Eleven, the nation's largest chain of convenience stores, says it depends on tobacco customers for more than 1/3 of its business, but the company says tobacco sales to minors are insignificant.

DAVID HUEY, 7-Eleven Merchandise Manager: I would say is that's occurring, it's a very small number of stores and a very small number of people that are obtaining cigarettes in that manner. What you're saying is it happens, I'm sure it does, but in terms of its significance, I wouldn't be concerned about it.

MR. HOCHBERG: Ron Sims is concerned. He and other members of the King County Council recently passed one of the nation's toughest ordinances aimed at stopping tobacco sales to minors. It will require cigarette retailers to obtain a county license to sell tobacco products. Then it will use that license to

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punish people selling cigarettes to minors.

RON SIMS, King County Council: The first violation you get a warning letter and a \$100 fine. The second violation you are fined \$500 and your license to sell tobacco products for three to six months. On the third violation the fine is \$1000 and your license to sell tobacco products is revoked. We hit people where it hits them hardest which is in their pocket book. Today when we had convenience store operators saying that 25 to 33 percent of their sales are tobacco products and that if they're suspended for any period of time it can put them out of business, that was our intent, to get people to understand that nicotine is highly addictive and we do not want it sold to young people under the age of 18.

MR. HOCHBERG: The ordinance will also eliminate self-serve vending machines in areas accessible to minors. It goes into effect in February. It's impossible to say how effective the legislation will be. One problem is that many kids have a source for tobacco that the law can't reach.

TEEN: When I don't have any money, I get cigarettes from my dad. He gives me cigarettes.

TEEN: My parents know I smoke, so normally my dad will bring me a pack home or something during the day.

TEEN: My mom buys them for me too, so I could always go have her buy 'em for me, so it's not like it would stop me because I couldn't buy 'em, because I can always find somebody to buy 'em for me.

MR. HOCHBERG: Not only do many parents tolerate smoking. So do many schools on the belief that banning smoking would just drive students away from school.

BILL WILEY, Principal, Everett Alternative H.S.: The board and the district felt that it was in the best interest of the district and of society in general to have, if you will, educated nicotine addicts rather than uneducated nicotine addicts.

MR. HOCHBERG: But the trend is the other way. School districts in several Seattle suburbs recently have banned smoking on school grounds. Most other school districts are expected to follow suit in the next few years, yet, no one expects the problem to be solved so easily.

JANE ANSLEY, Counselor, Auburn Schools: We've told them that they shouldn't smoke dope. We've told them they shouldn't drink beer. We've told them they shouldn't drive without their seat belts on, and they know all about it, but they still do because that's what youth does.

ROBERT ROSNER, Smoking Policy Institute: Well, Surgeon General Koop has a very interesting way of discussing the issue of kids and smoking. He says when you look at the tobacco industry, they have a problem. Every year they kill 350,000 of their best customers. They have to accrue.

MR. HOCHBERG: Many educators believe that tobacco advertising entices kids to try out smoking. Whether it's the rugged independence of the Marlboro man, the sexy playfulness of Salems, or the promise to be cool, the images portrayed by tobacco companies make a powerful impact on kids.

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ROBERT ROSNER: See the problem is is that education is boring and Madison Avenue is smart, and what we've been doing is we've been going up with a sling shot against Madison Avenue, and I think we have to fight fire with fire.  
{PUBLIC SERVICE ANNOUNCEMENT AGAINST SMOKING}

DR. ROBERT JAFFE: (Addressing Young Children in Classroom) My name is Bob Jaffe, and I'm a family doctor here in Seattle, and the reason why I came here is to talk about cigarettes and smoking.

MR. HOCHBERG: An organization of Washington physicians, Doctors Ought to Care or DOC, is trying to counter the effects of tobacco ads with TV public service announcements and school programs. They aimed at preventing young kids from ever starting to smoke.

DR. ROBERT JAFFE: What do those ads say about cigarettes?

LITTLE BOY IN CLASSROOM: They say smoke. They'll say we're the best cigarette you've ever tried.

DR. ROBERT JAFFE: So what do you think it'll do to? What does the ad say it's going to do to you?

LITTLE BOY IN CLASSROOM: It says it's going to make your life a better life.

DR. ROBERT JAFFE: Uh huh. Is she having a good time or bad time?

KIDS IN CLASSROOM: Good time.

DR. ROBERT JAFFE: So you want to be like her?

MIXED RESPONSE BY KIDS IN CLASSROOM

DR. ROBERT JAFFE, President, Washington DOC: What I'm trying to do now is to get down to the kindergarten to sixth grade level and convince kids that they don't need to start, that it's a stupid idea, that they're being coopted and duped by large corporations who want to profit off of their illnesses and their eventual death and work out their rebelliousness and anger against those companies, against those advertisements, and make the act of not smoking seem like a strong courageous nonconformist stand for them to take.

TEACHER IN CLASSROOM: Rule No. 1 says no smoking. That means that when you decide you're going to be in this group you are going to quit cold turkey.

MR. HOCHBERG: For kids who have started smoking and want to quit, a few schools offer help like this Stop Smoking class at a suburban Seattle high school. These students have good reasons for wanting to stop.

STUDENT: Most of the people in my family the reason of death, the main cause of death is lung cancer, and just waking up in the morning and coughin' up blood clots and stuff, it's not that fun.

STUDENT: I'm going to quit smoking because I used to be a distance runner and I want to start runnin' again and when I smoke, it just makes it hard, so I'm just gonna quit it altogether and get my act back in shape.

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STUDENT: My grandmas, all of 'em died of lung cancer, and my grandpas, and my mom is not even livin', she's not quite dyin', but she's got lung cancer. That's one reason I want to quit.

MR. HOCHBERG: Even for young smoker, quitting doesn't come easily. Of the 24 students who started this class, none has been able to completely kick the habit.

MR. LEHRER: We close tonight with a look back at Emperor Hirohito of Japan. He died this evening after a four month illness. He was 87 years old. He had reigned for 62 years, and during that time, Japan had moved from a military to an economic power. Charlayne Hunter-Gault prepared this report on the passing of the head of the oldest imperial family in the world.

MS. HUNTER-GAULT: When Hirohito inherited the throne in 1926, the emperor was considered literally descended from the gods. During his life, that concept changed to a much more human one, a change that can be seen in the way he died, fighting till the end, blood transfusion after blood transfusion, using advanced medical technology. This would have been unthinkable when Hirohito was growing up. In those days, neither the Emperor or his children were supposed to be given any medicine, because it was considered a violation of their sacred bodies. It was at the urging of his wife that Hirohito, himself, changed that practice, allowing his daughter to be given pain killers for a terminal illness. Much of the emperor's job was ceremonial, like reviewing the troops. But he did have ultimate power, but it's not clear how often he exercised that power. He was often presented with fait de complits by his generals who led Japan into war with China and other neighbors in the 1930s. It's not even clear whether Hirohito approved of the war against the United States, but one decision was clearly his, to surrender after the U.S. dropped the atom bomb on Hiroshima. He prevailed over some military leaders who wanted to fight until the end. When he announced Japan's surrender on national radio on August 15, 1945, it was the first time the Japanese public had ever heard his voice. The people were not supposed to look at or hear him because of his divine status. Japan surrendered to Gen. Douglas McArthur, who directed the U.S. military occupation.

DOUGLAS MC ARTHUR: To sign the instrument of surrender at the places indicated.

MS. HUNTER-GAULT: McArthur draft a new constitution, but rejected suggestions to depose the Emperor. Still the constitution took away the emperor's power and gave it to Japan's parliament. The emperor not only acquiesced, but enthusiastically supported the new constitution, urging the Japanese people to do the same.

SPOKESMAN: {Speaking through Interpreter} We shall join with the people in getting our fullest efforts to carry out the terms of this constitution correctly.

MS. HUNTER-GAULT: Hirohito now had a purely ceremonial role, more closely resembling the Queen of England's. Japan's history books would no longer call the emperor a god. Demystified, Hirohito became more of a public figure, appearing in front of huge crowds, visiting coal mines and factories throughout the country, even traveling abroad. He went to England in 1973, where he was greeted by the queen, despite some protests from World War II veterans and prison camp survivors. It was the first time any Japanese emperor had ever

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left his country. By this time, Japan was a major economic and growing diplomatic force and would become a key participant in global economic summits. Its automobiles and electronic products were selling better and better outside the country. Its military force was limited by the constitution, but under American pressure, the country has gradually increased its defense program. In 1975, Hirohito came to the United States. In addition to his visit to the White House, he was interviewed on network television about his role in World War II. (TELEVISION INTERVIEW)

MS. HUNTER-GAULT: His last public appearance was in August, attending a ceremony for Japanese soldiers killed during World War II. With Hirohito's death, his son, Crown Prince Akahito, inherits the throne and will go through many ancient coronation rituals. But he will come to a throne of a nation much more symbolized by its consumer goods and by a dynamic exporting economy than by the ancient imperial grandeur or military power of his father's time.

RECAP

MR. MAC NEIL: And again the other main points in the news this Friday, the first indictments and guilty pleas were made today in the Pentagon procurement case. The charges range from conspiracy and bribery to theft and racketeering. The nation's unemployment rate dropped to 5.3 percent last month, the lowest level since May of 1974, and the Soviet Union rejected the U.S. claim of self-defense in the Libyan shootdown incident. Good night, Jim.

MR. LEHRER: Good night, Robin. Have a nice weekend. We'll see you on Monday night. I'm Jim Lehrer. Thank you and good night.

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